

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

RAFAEL ROSA, III,)	
)	
Plaintiff,)	
)	
v.)	No. 2:23-cv-00548-JMS-MJD
)	
CENTURION HEALTH OF INDIANA, LLC, et)	
al.,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

On July 2, 2024, Plaintiff's attorneys, Brandon Tate and Ann Marie Waldron filed a motion pursuant to Local Rule 83-7 seeking to withdraw their appearances. [Dkt. 45.] Counsel represented that

[t]hroughout this case, Mr. Rosa has been unable to maintain consistent contact with Recruited Counsel. Recruited Counsel has attempted to communicate with Mr. Rosa at the email addresses and various phone numbers provided by Mr. Rosa. Most recently, Recruited Counsel has been unable to connect with Mr. Rosa regarding the upcoming settlement conference and the completion of discovery responses. Recruited Counsel. Mr. Rosa has stopped meaningfully responding to Recruited Counsel's email and voicemails.

[Dkt. 45 at 2.] They further represented that "[t]he lack of communication from Mr. Rosa regarding this matter has led to a complete breakdown in the attorney-client relationship, creating a personal incompatibility between Mr. Rosa and Recruited Counsel."¹ *Id.*

¹ While Counsel refers to themselves as Recruited Counsel, they are not actually Recruited Counsel in this case. They were recruited in another case in this district and subsequently filed this case on behalf of Plaintiff.

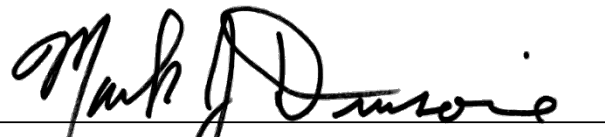
The Undersigned set a telephonic *ex parte* hearing on the motion to withdraw on July 25, 2024. [Dkt. 46.] The order setting the hearing required Plaintiff, along with at least one of his attorneys, to attend the hearing by telephone. Counsel appeared; Plaintiff did not. The Undersigned then issued an Order to Show Cause which ordered Plaintiff to appear, in person, on August 15, 2024, to show cause why he should not be sanctioned for his failure to comply with the order to appear at the telephonic hearing. [Dkt. 48.] The Order further provided: "**Mr. Rosa is hereby advised that, if he again fails to appear for the show cause hearing, the Court will recommend the dismissal of this case for his repeated failure to comply with the Court's orders.**" *Id.* (emphasis in original). Plaintiff again did not appear.

Given Plaintiff's failure to comply with two orders to appear, as well as his failure to cooperate with his counsel, the Undersigned believes that dismissal of this case pursuant to Federal Rule of Civil Procedure 41(b) is appropriate. Accordingly, the Undersigned **RECOMMENDS** that this case be dismissed, with prejudice.

Any objections to the Magistrate Judge's Report and Recommendation shall be filed with the Clerk in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), and failure to timely file objections within fourteen days after service shall constitute a waiver of subsequent review absent a showing of good cause for such failure.

SO ORDERED.

Dated: 15 AUG 2024



Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

Distribution:

All ECF-registered counsel of record via email

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